REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASES

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 2503

A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONSIDER A PETITION FOR REINSTATEMENT OF A CERTAIN OIL AND GAS LEASE

S. 2680

A BILL TO PROVIDE FOR THE REINSTATEMENT OF UNITED STATES OIL AND GAS LEASE APPLICATIONS NUMBERED U-26845, U-26504, AND U-26505

S. 2681

A BILL TO PROVIDE FOR THE REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASE NUMBERED U-14654

S. 2824

A BILL TO PROVIDE FOR THE REINSTATEMENT OF AN OIL AND GAS LEASE IN EDDY COUNTY, NEW MEXICO

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REINSTATEMENT AND VALIDATION OF U.S. OIL AND GAS LEASES

FRIDAY, DECEMBER 10, 1982

U.S. SENATE,
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:05 a.m., in room 3110, Dirksen Office Building, Hon. John W. Warner, presiding.

Present: Senator Warner.

Also present: Roger Sindelar, counsel; and D. Michael Harvey, chief counsel for the minority.

OPENING STATEMENT OF HON. JOHN W. WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator WARNER. The subcommittee will come to order. Today is the third in a series of hearings that this subcommittee has held on legislation to reinstate and validate oil and gas leases or other mineral leases leased under the Mineral Lands Leasing Act of 1920. Because of the way the law is currently written hearings like this must be held if leases that for various reasons have been allowed to lapse, and deserve to be given extension, will receive new life and produce necessary oil and gas commodities.

As I stated in the earlier hearings, it is my hope that equitable, efficient, and expedient procedures will be implemented which would make hearings such as today's no longer necessary.

It appears that S. 2305, which has a separate section addressing the procedure for reinstating oil and gas leases, would provide the mechanism to handle the majority of bills coming before the subcommittee in the revalidation process. However, it seems that since the measure only addresses oil and gas leases, there is still need for the subcommittee to consider some private measures which call for the revalidation and the reinstatement of those leases issued under the Mineral Lands Leasing Act which are not of an oil and gas nature. Hopefully this problem can be addressed in the future.

We have before us today four bills, three dealing with oil and gas leases, and one dealing with tar sands.

I will insert in the record at this point the text of the bills and a statement from Senator Domenici.

[The material follows:]

97TH CONGRESS
2D SESSION

S. 2503

To authorize the Secretary of the Interior to consider a petition for reinstatement of a certain oil and gas lease.

IN THE SENATE OF THE UNITED STATES

MAY 6 (legislative day, APRIL 13), 1982

Mr. DOMENICI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize the Secretary of the Interior to consider a petition for reinstatement of a certain oil and gas lease.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall receive, consider, and act upon any petition of Atom, Incorporated, Farmington, New Mexico, filed within one hundred and eighty days after the effective date of this Act, for reinstatement of a United States oil and gas lease designated NM 4565, and accompanied by the required rental, including back rental accuring from the date of termination, and shall reinstate such lease in accordance with the provisions of section 31(c) of the Mineral

Leasing Act of 1920, as amended (30 U.S.C. 188(c)), if it is shown to the satisfaction of the Secretary that the failure to pay timely was either justifiable or not due to lack of reasonable diligence.

97TH CONGRESS
2D SESSION

S. 2680

To provide for the reinstatement of United States oil and gas lease applications numbered U-26845, U-26504, and U-26505.

IN THE SENATE OF THE UNITED STATES

JUNE 29 (legislative day, JUNE 8), 1982

Mr. GARN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To provide for the reinstatement of United States oil and gas lease applications numbered U-26845, U-26504, and U-26505.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070), the Secretary of the Interior is authorized to vacate any decision heretofore issued denying United States oil and gas lease applications numbered U-26485, U-26504, and U-26505 and to process said applications in accordance with the laws in effect on November 15, 1981.

SEC. 2. If a lease is granted pursuant to the applications referred to in section 1 of this Act, the lessee may, within six months of issuance of the lease, apply for conversion of such lease to combined hydrocarbon lease under section 8 of the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1071).

97TH CONGRESS
2D SESSION

S. 2681

To provide for the reinstatement and validation of United States oil and gas lease numbered U–14654.

IN THE SENATE OF THE UNITED STATES

JUNE 29 (legislative day, JUNE 8), 1982

Mr. GARN (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To provide for the reinstatement and validation of United States oil and gas lease numbered U–14654.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior of the United States or his authorized agents or representatives, United States oil and gas lease numbered U–14654 shall be held not to have terminated by operation of law or otherwise on April 30, 1981, but shall be deemed to be in full force and effect and the term of said lease extended under section 17(e) of the Act of February 25, 1920 (41 Stat. 443, as amended by the Min-

eral Leasing Act revision of 1960, 74 Stat. 782), to April 30, 1983, and so long thereafter as oil or gas is produced in paying quantities: *Provided*, That within thirty days after the receipt of written notice from the Secretary of the Interior of the amount of rental then accrued to the United States under said lease and unpaid by the last recordholder of said lease, said recordholder shall tender payment of said amount of rental. Notice shall be given by the Secretary within thirty days after the effective date of this Act.

97TH CONGRESS
2D SESSION

S. 2824

To provide for the reinstatement of an oil and gas lease in Eddy County, New Mexico.

IN THE SENATE OF THE UNITED STATES

AUGUST 11 (legislative day, JULY 12), 1982

Mr. DOMENICI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To provide for the reinstatement of an oil and gas lease in Eddy County, New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall receive, consider, and act upon any petition of Getty Oil Company, filed within one hundred and eighty days after the date of enactment of this Act, for reinstatement of a United States oil and gas lease designated NM 13413, and accompanied by the required rental, including back rental accruing from the date of termination, and shall reinstate such lease in accordance with the

provisions of section 31(c) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188(c)).

Senator WARNER. The first witness will be Mr. Lawton, the Assistant Director, Energy Resources, Bureau of Land Management, Department of the Interior.

STATEMENT OF SENATOR PETE V. DOMENICI

Mr. Chairman, I want to thank you for holding these hearings on S. 2503, a bill to authorize the Secretary of the Interior to consider a petition for reinstatement of a certain oil and gas leases in New Mexico.

The New Mexico gas and oil company, Atom, Inc., has a gas and oil lease on Federal land in Sandoval County, New Mexico. The company was drilling a well on the lease site on the expiration date of the lease, February 28th, 1978, an action by which officials of the company felt the lease would be extended and the company's right thereunder preserved. The officials of the company were aware that royalty payments on the lease were required but they understood, incorrectly as it turned out, that this lease fell into the category of "minimum royalty" meaning that the company would be billed for royalty payments by the appropriate Federal Government agency.

Unfortunately, as to the lease, royalties were not billed but due February 28th, 1978. On April 12, 1978, the company was notified that the lease would be terminated for nonpayment of royalties. The company ceased operations on the well they were drilling and sent a check that same day for the amount of rental fee, $401.50.

The Bureau of Land Management determined, in accordance with the provisions of existing laws and regulations, that it was without power to reinstate because "the rental was tendered more than 20 days after the anniversary of the lease."

I feel there are extenuating circumstances in this matter which justify the enactment of a bill which simply gives the Secretary of Interior more flexibility than he and his subordinates have under existing regulations.

It seems to me that there being no intention not to pay and no one being hurt by the reinstatement of this lease that it would be unjust to take this lease away from a company that has invested more the $37,000 in its development. I believe that everyone connected with this case agrees that there was no intention to not pay the royalty and that as soon as the company received notice of a deficiency they transmitted the payment.

I believe that in this case, it is entirely fair and reasonable to provide the flexibility for the Secretary of the Interior to reinstate the lease.

STATEMENT OF ROBERT LAWTON, ASSISTANT DIRECTOR, ENERGY RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. LAWTON. Thank you, Mr. Chairman. My name is Robert Lawton. I am the Assistant Director for Energy Resources, Bureau of Land Management, Department of the Interior. I appreciate the opportunity to appear before this subcommittee today to discuss the Department's position on the bills we are covering.

I have written statements on each of the four that we are addressing. I would like to submit those for the record and then proceed as you wish.

Senator WARNER. Fine. Thank you very much. They will be accepted.

[The prepared statements of Mr. Lawton follow:]

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STATEMENT OF ROBERT LAWTON, ASSISTANT DIRECTOR, ENERGY RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 2503, A BILL "TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONSIDER A PETITION FOR REINSTATEMENT OF A CERTAIN OIL AND GAS LEASE."

I appreciate the opportunity to appear before the subcommittee to discuss the Department of the Interior's position on S. 2503.

S. 2503 would direct the Secretary of the Interior to receive, consider, and act upon any petition for reinstatement of terminated oil and gas lease NM 4565 filed by the lessee of record, Atom, Incorporated, within 180 days after the effective date of the bill, with the required rental. The bill would also direct the Secretary to reinstate the lease in accordance with the provisions of section 31(c) of the Mineral Leasing Act of 1920 (30 U.S.C. 188(c) if it is shown to his satisfaction that the failure to pay rent in a timely manner was either justifiable or not due to lack of reasonable diligence.

We would not object to enactment of S. 2503.

Lease NM 4565, a noncompetitive lease covering 802.16 acres in San Juan County, New Mexico, was issued effective March 1, 1968, to A.F. Gilmore Company of Los Angeles, California, for a period of 10 years. The original rent was one dollar per acre. Subsequent assignments of the lease resulted in the acquisition of the leasehold interest by Atom, Incorporated effective January 1, 1978.

On February 9, 1978, the Bureau of Land Management (BLM) received notification from the Conservation Division of the United States Geological Survey (USGS) which was later transferred to the Minerals Management Service (MMS) that J. Gregory Merrion and Robert L. Bayless had been designated operators of the lease. By memorandum dated March 2, 1978, USGS informed BLM that drilling operations were being conducted on lease NM 4565 on February 28, 1978, the last day of the primary term of the lease. Because drilling operations were being conducted prior to the end of the primary term of the lease, the USGS recommended on March 31, 1978, that the lease be extended, subject to the payment of rent on or before March 1, 1978. Rental was received by BLM on April 13, 1978.

By decision dated April 20, 1978, BLM declared that the lease had terminated for failure to submit the rent in a timely manner. The decision was appealed to the Interior Board of Land Appeals (IBLA). However, on September 6, 1978, attorneys for Atom, Inc. withdrew the Notice of Appeal, and the appeal was dismissed by IBLA on September 29, 1978.

By memorandum dated September 8, 1978, MMS advised BLM that approximately 80 acres of the 802.16 acres covered by lease NM 4565 were determined to be within the Scarbada known geologic structure (KGS). Designation of all or a portion of an oil and gas leasehold as a KGS automatically increases the rent of the entire leasehold to two dollars per acre.

Under 30 U.S.C. 188(c), the Secretary has no authority to reinstate a lease which has automatically terminated by operation of law for nonpayment of rental unless the rental is tendered within 20 days of the due date. Since the rental was submitted on April 13, 1978, long after the expiration of the 20-day period, the Secretary was without authority to reinstate the lease. However, we have no objection to granting the Secretary authority to consider reinstating this lease because the lessee appears to have been diligent in pursuing development of the leasehold.

I will be happy to answer questions on the bill.

BEST COPY AVAILABLE

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STATEMENT OF ROBERT LAWTON, ASSISTANT DIRECTOR, ENERGY RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 2680, A BILL "TO PROVIDE FOR THE REINSTATEMENT OF UNITED STATES OIL AND GAS LEASE APPLICATIONS NUMBERED U-26845, U-26504, and U-26565."

I appreciate the opportunity to appear before this subcommittee to discuss S. 2680.

S. 2680 would authorize the Secretary of the Interior to vacate any decision previously issued denying lease applications U-26485, U-26504, and U-26505, and to process the applications in accordance with the laws in effect on November 15, 1981, notwithstanding the provisions of the Combined Hydrocarbon Leasing Act of 1981.

If the Secretary grants leases pursuant to the applications, the lessee could, within six months of issuance of the leases, apply for conversion of the leases to combined hydrocarbon leases under section 8 of the Combined Hydrocarbon Leasing Act of 1981.

We have no objection to enactment of S. 2680.

On June 10, 1974, Justheim Petroleum Company filed the three oil and gas lease applications which are the subject of this bill with the Bureau of Land Management's Utah State Office. On July 2, 1974, the Utah State Office advised Justheim that the lease applications would be held in abeyance for one year because the involved lands were also included in indemnity selection applications previously filed by the State of Utah, and because the State of Utah opposed the issuance of the leases. The Utah State Office further advised Justheim that if the State's applications were still pending after

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one year, the lease applications would be rejected. On January 13, 1975, the Interior Board of Land Appeals (IBLA), acting on an appeal by Justheim, found that disposition of Justheim's offers was dependent upon the final disposition of the prior-filed State selection applications for the same lands. The IBLA ruled that the offers be suspended until the State selection applications were judicially resolved, including exhaustion of all appeal rights.

Between 1977 and 1980, Justheim entered into an agreement with Enercor whereby substantial portions of the lands proposed for lease by Justheim would be mined for tar sand deposits which would then be used as "feed stock" for an oil extraction pilot plant to be built by Enercor.

On August 26, 1980, the Under Secretary of the Department of the Interior directed the BLM Utah State Office to temporarily stop the issuance of non-competitive oil and gas leases in designated tar sand areas in eastern Utah.

On September 30, 1980, certain lands in eastern Utah, including the lands involved in the three oil and gas lease applications, were designated as the PR Springs Tar Sands Area. On May 28, 1981, the Assistant Secretary, Land and Water Resources, requested BLM "in the interests of equity", to proceed with the issuance of oil and gas leases in the Utah designated tar sands areas, in those cases where applications had been filed prior to August 26, 1980. However, the leases applied for by Justheim were not issued because of the State's desire to receive unencumbered lands.

The Combined Hydrocarbon Leasing Act of 1981, effective November 16, 1981, provides that lands within a designated tar sands area can only be leased by competitive bidding.

On March 5, 1982, the Utah State Office rejected Justheim's lease applications, citing both the August 26, 1980, directive against the issuance of oil and gas leases in designated tar sands areas, and the prohibition in the Combined Hydrocarbon Leasing Act against non-competitive leases for tar sand areas.

While we do not object to enactment of S. 2680, we note that the Secretary and the State of Utah have been negotiating for a long time to resolve the question of Utah's in lieu selections, and that on July 23, 1982, the Secretary of the Interior tentatively approved the State of Utah's proposed State indemnity selections. The lands applied for by Justheim are included in the State's applications. The State is not adverse to developing the mineral resources of the lands; however, it would prefer to lease the lands in accordance with the State's leasing procedures. We believe that the Congress should consider the State's wishes when it deliberates the merits of S. 2680.

If S. 2680 is enacted, the Bureau will issue the leases, as authorized by the bill.

We suggest one technical amendment in the title of the bill. The number U-26845, should be U-26485.

I would be happy to answer any questions on the bill.

DEC 10 1982

STATEMENT OF ROBERT LAWTON, ASSISTANT DIRECTOR, ENERGY RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 2681, A BILL "TO PROVIDE FOR THE REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASE NUMBERED U-14654."

I appreciate the opportunity to discuss S. 2681, a bill "To provide for the reinstatement and validation of United States oil and gas lease numbered U-14654."

S. 2681 would provide that United States oil and gas lease numbered U-14654 would be held not to have terminated by operation of law or otherwise on April 30, 1981, but would be deemed to be in full force and effect and the term of the lease would be extended under section 17(e) of the Mineral Leasing Act to April 30, 1983, and so long thereafter as oil or gas is produced in paying quantities. Within 30 days of enactment of S. 2681 the Secretary of the Interior would be required to notify the last recordholder of the lease of the amount of rental that had accrued and was unpaid under the lease. Within 30 days of receipt of written notice from the Secretary of the rental accrued and unpaid on the lease, the recordholder would be required to tender payment of such amount.

We would not object to enactment of the bill if the Congress finds that the facts of the case warrant the special relief that the bill would grant.

Oil and gas lease U-14654, comprising 489.26 acres in Grand County, Utah, was issued noncompetitively on May 1, 1971, for a primary term of ten years ending April 30, 1981. The lessees of record were informed by notice

dated May 30, 1980, that the U.S. Geological Survey had determined that certain lands covered by oil and gas lease U-14654 were within the Greater Cisco Area known geological structure, effective March 4, 1980. The lessees also were informed that if the lease was extended beyond its expiration date of April 30, 1981, the rental would be $2 per acre.

The Geological Survey, by memorandum dated May 1, 1981, notified the Bureau of Land Management (BLM) that actual drilling operations were being conducted on the lease, but it could not, at that point, determine whether the requirements for extension had been met. On June 26, 1981, Federal No. 14-5 well was put into production. It continuously produced oil and gas until production was temporarily shut down pursuant to the BLM Notice of Trespass dated March 26, 1982.

On March 2, 1982, the Minerals Management Service advised BLM that the requirements for extension had been fulfilled, and recommended an extension. In addition, BLM was informed that the well had been completed on June 26, 1981.

When BLM began processing the extension it discovered that no rental had been received to cover the first year of the extended term of the lease. On March 11, 1982, the lease was declared by BLM to have terminated for nonpayment of the eleventh year rental that was due on April 30, 1981. On April 9, 1982, the lessees filed an appeal to the Board of Land Appeals. A decision has not been issued by IBLA. However, a Stipulation and Escrow Agreement with the lessee, entered into on July 7, 1982, has allowed continued operation of the well until the status of U-14654 is finally determined.

The lessees of oil and gas lease U-14654 assert that in conducting drilling operations on the lease, they have expended well over $500,000. A valuable commercial oil well has been successfully completed on the lease.

The lessees' actions in this matter indicate a diligent pursuit of expeditious development of the lease. Reinstatement of the lease would be in the national interest.

This concludes my statement. I will be happy to answer any questions.

DEC 10 1982

STATEMENT OF ROBERT LAWTON, ASSISTANT DIRECTOR, ENERGY RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 2824, A BILL "TO PROVIDE FOR THE REINSTATEMENT OF AN OIL AND GAS LEASE IN EDDY COUNTY, NEW MEXICO."

I appreciate the opportunity to discuss S. 2824, a bill which would reinstate an oil and gas lease in Eddy County, New Mexico.

S. 2824 would require the Secretary of the Interior to receive, consider, and act upon any petition of Getty Oil Company filed within 180 days after enactment of S. 2824 for reinstatement of United States oil and gas lease numbered NM 13413. The petition would have to be accompanied by the required rental, including back rental accruing from the date the lease was terminated. The Secretary would be directed to reinstate the lease in accordance with section 31(c) of the Mineral Leasing Act, as amended (30 U.S.C. 188(c)).

We would not object to enactment of S. 2824 if it is amended to meet our concerns.

Oil and gas lease NM 13413, comprising 1,000 acres in Eddy County, New Mexico, was issued noncompetitively on April 1, 1971, for a primary term of ten years ending March 31, 1981, and so long thereafter as oil or gas is produced in paying quantities. The lease was assigned to Getty Oil Company in May 1973.

On January 14, 1982, the Minerals Management Service (MMS) notified the Bureau of Land Management (BLM) that actual drilling operations were being conducted on March 31, 1981, the last day of the primary lease term, and that the lessee was eligible for a two year extension.

In April 1982, when the Bureau of Land Management's New Mexico State office began processing the extension, it discovered that no rental had been received to cover either the first or second years of the extended term of the lease. On April 15, 1982, Getty attempted to pay rental for the periods April 1, 1981 through March 31, 1982, and April 1, 1982 through March 31, 1983. On May 12, 1982, the lease was declared by BLM to have terminated for nonpayment of the eleventh year's rental due on March 31, 1981. On June 25, 1982, the lessee filed an appeal to the Board of Land Appeals. A decision has not been issued by IBLA.

The lessee's drilling operations resulted in the completion of a producing well on May 28, 1982. The well is presently shut-in pending the outcome of this legislation. The lessee has thus far expended $3 million on development of the leasehold.

By memorandum of July 15, 1982, MMS notified BLM that 160 acres of the 1,000 acres covered by lease NM 13413 had been determined to be within a known geologic structure (KGS). Designation of all or a portion of an oil and gas leasehold as a KGS automatically increases the rent of the entire leasehold to two dollars per acre.

Under 30 U.S.C. 188(c), the Secretary may consider reinstating a terminated lease if payment of rent is tendered within twenty days of the lease's anniversary date. Since the rent for the eleventh year of lease was not tendered until April 15, 1982, more than a year after the anniversary

date, the Secretary does not have the authority to reinstate the lease. However, we feel that reinstatement of this lease may be justified on equity grounds. The lessee has pursued development of the lease and achieved a producing well. Expeditious development is in the national interest.

S. 2824 would require the Secretary to reinstate the lease in accordance with section 31(c) of the Mineral Leasing Act. That section authorizes the Secretary to reinstate a lease if he finds nonpayment of rent was either justifiable or not due to a lack of due diligence, and if the rental due is paid within 20 days of the anniversary date of the lease. In this case, the latter provision cannot be met and S. 2824 should be amended to exempt the beneficiary of the bill from having to meet that requirement. In addition, we believe the bill should be amended to state clearly that the Secretary shall reinstate the lease only if he finds the other requirements of section 31(c) have been met.

We will be happy to work with Committee staff in preparing appropriate language of amendment.

That concludes my statement. I would be happy to respond to any questions in the bill.

Senator WARNER. I think to expedite the procedure we will just take them in the order as reflected on this.

Senator Moss, which one have you got here?

Senator Moss. No. 2680 on tar sands.

Senator WARNER. Why don't we start with that? We are delighted to have you join us this morning.

Senator Moss. Thank you, Mr. Chairman. I think we can be very brief.

Senator WARNER. Senator, you can take as much time as you want.

Senator Moss. Thank you. I told them down here that Senators didn't talk much, and they didn't take to that very well.

STATEMENT OF HON. FRANK MOSS, A FORMER U.S. SENATOR FROM THE STATE OF UTAH, ACCOMPANIED BY BOB WEIDNER, STAFF OF SENATOR JAKE GARN, A U.S. SENATOR FROM THE STATE OF UTAH

Senator Moss. Mr. Frank Allen, a friend of mine, and Kent Hatfield, are here. Mr. Allen is an attorney. Mr. Hatfield is president of Enercor, which is doing the work on tar sands.

We have a little kind of a slip-up really that got us into this trouble, and I would like to have Mr. Allen begin and have Mr. Hatfield say just a word or two. I think it will be very brief.

STATEMENT OF FRANK ALLEN, ATTORNEY JUSTHEIM PETROLEUM CO., SALT LAKE CITY, UTAH

Mr. ALLEN. Thank you. My name is Frank Allen. I am attorney for Justheim Petroleum Co., the applicant for the leases which are the subject of this bill. I will refer to the desired leases as "these leases" and the land that we are seeking to lease as "this land."

Justheim Petroleum Co. is a public company which is engaged—has engaged in public land mineral leasing since the early fifties—certainly not an opportunist.

The bill under consideration has been introduced to correct an injustice which has resulted from some rather astonishing, I think, bureaucratic delays. Justheim and Enercor have actually spent in the magnitude of millions of dollars to demonstrate the mineral potential of this land in reliance on some departmental assurances that these leases would in fact issue.

When the assurances were made, when the money was spent, there really were no legal obstacles to their issuance. By the time the BLM got around to the physical act, the controlling legislation had been revised to provide a basis for the Secretary to reject an offer of lease, and in fact the offers were rejected.

I think a brief review of the status and history of the land since 1965 is appropriate. In September 1965, the State of Utah filed indemnity selection applications covering 157,000 acres, including this land. The land was consequently shown on the BLM land status plat as withdrawn from availability for mineral leasing or any other Federal disposition.

Despite the priority attention such applications should command, there was actually no response from Interior until 9 years later. It is about four Presidential administrations later.

In February 1974, the then Secretary took for the first time in history the position that the Taylor Grazing Act had removed all Utah land from eligibility for State selection so that the State selection applications filed back in 1965 were null. The Secretary's position in that regard was finally upheld by the Supreme Court in *Andrus* v. *Utah* which came down in May 1980.

In June 1974, which was 4 months after Interior had taken a formal position, there were no lands in Utah available for indemnity selection. Justheim applied for these leases. That was, of course, consistent with the position that Interior had taken by that time. Action on those applications was deferred until final adjudication determination as to the effect of the State's file. In *Andrus,* the Court said that such applications had no effect until the Secretary

classified land as eligible for selection and he had not then, has not now so far as I know, classified any land as available for selection.

Presumably after *Andrus* there was no obstacle to issuance of the leases. That certainly was the opinion of Justheim's counsel, and indeed of the Secretary. On May 28, 1981, Under Secretary Carruthers directed by official memorandum that these leases issue, and he spoke in his memorandum about the equities of the situation.

Enercor obtained some permits to enter upon the land, that is, for core drilling; contributed to a general EIS for which the BLM was the lead agency, and that EIS was site specific and oriented to these specific lands.

In any event, Mr. Hatfield will talk about the actual expenditures which were made and the amount of them, but we are talking about a very large amount of money which was spent to demonstrate the mineral potential of the land. We have had the assurances of the Department that these leases would issue, and it certainly is in the interest of abstract justice that this bill pass.

Thank you very much.

STATEMENT OF KENT HATFIELD, EXECUTIVE VICE PRESIDENT, ENERCOR PETROLEUM CO., SALT LAKE CITY, UTAH

Mr. HATFIELD. Mr. Chairman, I am Kent Hatfield, executive vice president of Enercor.

On the basis of the Supreme Court decision and on the basis of the Carruthers' memorandum, Enercor entered into quite an exhaustive evaluation of these properties. We spent about $78,000 with the permission of the BLM on a special use permit to drill and core the property to determine what the sand potential was. We then spent $250,000 to the BLM to participate in their synfuel environmental impact statement in which we identified site-specific this project which we called the Rainbow project.

We then constructed in Salt Lake City at the cost of about $1,942,000 a pilot plant and we mined ore from an adjacent State section that we had right to about 5,000 tons of ore and brought it into Salt Lake City and ran a pilot plant for about 6 months to evaluate the potential.

All this has pointed in the direction of a commercial project on this property if this bill would pass and the leases were available for our use.

Thank you.

Senator WARNER. I would like now to turn to Mr. Lawton. Generally speaking, Mr. Lawton, do you have any reason to believe that there might be harm to the U.S. Government or to the public should this lease be reinstated and validated?

Mr. LAWTON. Under the conditions that you have heard, and I have basically nothing more to add, we would have no objection to the enactment of this bill.

Possibly one thing that could be pointed out is that this, the area that would include these three applications, has been identified and designated as PR Springs Tar Sands Area in September 1980. Under the Combined Hydrocarbon Leasing Act, passed in Novem-

ber 1981, all leases issued within designated tar sands area are to be leased competitively. That is in the act itself.

Another point that I would like to make here is that the Secretary of the Interior and the governor have been negotiating for a long time to finish the in lieu selection for the State of Utah, and on July of this year, the Secretary gave tentative approval for this selection and instructed both the Bureau of Land Management and the Minerals Management Service to give top priority to the clearance of these lands. Hopefully this will come about early next year.

The State has indicated that they have no problem with leasing and development of minerals on their land. They do wish that they would have the opportunity to lease the land themselves after selection. They would prefer to get them unencumbered. That is their position as a State. We have no objection to the enactment. If it is enacted, we will proceed immediately to carry out the instructions under the bill itself.

Senator WARNER. Mr. Lawton, while I was listening to the direct testimony counsel for the subcommittee, Mr. Sindelar, pointed out a portion of your witness statement. I am going to ask him to address a question to you.

Mr. SINDELAR. In following up, on your statement, Mr. Lawton, you made mention of the July 23 agreement between the Secretary of the Interior and the State of Utah, and you indicate that Congress should consider the State's wishes when it deliberates the merits of S. 2680.

I would like for you to expand on this statement? Do you have suggested language for this subcommittee and this committee in our consideration of S. 2608? Do you have language that we might be able to add which would take that into consideration?

Mr. LAWTON. I don't have the appropriate language to accomplish that at this time because this is a tar sands area, and oil and gas leases issued in the area would have a right to conversion to the combined hydrocarbon lease.

We will work with you to develop the appropriate language. We will do it at as early a time as possible to satisfy your needs.

Senator WARNER. Senator Moss, do you have a copy of Mr. Lawton's statement?

Senator MOSS. I do, sir, yes.

Senator WARNER. Have you had an opportunity to examine it?

Senator MOSS. I have, rather quickly.

Senator WARNER. Now I would be perfectly willing to set this one aside momentarily while you and your colleagues review it with some care should you wish to come back to the table and proffer some additional thought. It might be in your interests to do that.

Senator MOSS. Thank you. Yes, we would like, of course, the pressure of time being what it is, we would like to clear up anything that needs clearing up.

I was mentioning the fact that the State's great interest in this, the State advanced a good part of the money in that pilot plant that was operated to test the sands out there, and the State is very interested in the development.

Senator WARNER. Would you like to take a few moments to examine that, consult with your colleagues, and then perhaps we will

return to this lease in 5 minutes, 10 minutes, whenever you are ready.

Senator Moss. Thank you, sir. I appreciate it.

Senator WARNER. So let's turn now to S. 2681. Gentlemen, good morning. I presume you have Mr. Lawton's statement and you have had the opportunity to examine it?

Mr. WEINSTOCK. I have perused it quickly.

Senator WARNER. Well now, we want to do this properly. If you wish to have a little time, I will be glad to accommodate you.

Mr. WEINSTOCK. I think the facts from our side, Mr. Chairman, are very well represented and stated as I have reviewed it.

Senator WARNER. Would you identify yourselves for the record?

Mr. WEINSTOCK. Frank Weinstock, Western Gold'n Gas.

Mr. CARPENTER. Craig Carpenter representing Exit, Inc.

Senator WARNER. I want to proceed here very carefully. Now have you had adequate opportunity to examine this? If not, we will take a brief recess.

Mr. WEINSTOCK. I would appreciate a brief recess.

Senator WARNER. All right. We will take a brief recess. Mr. Lawton, why don't we take the next two, S. 2503 and S. 2824.

Senator Moss. Could I interrupt just a moment? We have conferred in the hall, and the Governor of the State of Utah has sent word. I didn't have this information. He doesn't object to the bill. The State does not object, and we see no reason to have any amendments at all other than the number. There is a number on the leases.

Senator WARNER. Let me take just a moment. In what form of communication did the governor come to the subcommittee?

[A discussion was held off the record.]

Senator Moss. As I say, the State of Utah has no objection. The governor has said that he has no objection, and the State would support this bill.

Senator WARNER. My question to counsel of the subcommittee is in what form has the governor's communication been received?

Mr. SINDELAR. I believe the communication has been made orally over the telephone to Senator Garn's office. Subcommittee counsel has not received any communication whether orally or in writing on this issue.

Senator Moss. I am sure we can get it in writing if you would like.

Mr. SINDELAR. For the official record, I think it would be wise for it to be in writing. There will be counsel and Senators who are not here which will inquire as to that. It will be easier to show.

Senator Moss. We will get it by wire today.

Senator WARNER. I believe another gentleman wishes to say something. Will you identify him for the record?

Mr. WEIDNER. I am Bob Weidner with Senator Garn's office. I had the communication with Governor Matheson's office who stated no objection. I believe I can get a letter from the governor today that would indicate that.

Senator WARNER. I appreciate that very much.

Senator Moss. We would like to submit it for the record.

[The letter follows:]

STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114

SCOTT M. MATHESON
GOVERNOR

December 9, 1982

The Honorable Jake Garn
United States Senator
5121 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Jake:

I understand that you are sponsoring S.2680, which would grant tar sand leases in Utah to Justheim Petroleum Company. I feel obligated to comment on this legislation because of the state's special interest in this area.

As you know, we have spent many years trying to process over 200,000 of in-lieu selection rights. Our efforts have been frustrated by administrative delays and litigation to the point that no lands have been transferred to the state. The lease applications in question were impacted by this process because the state has submitted in-lieu applications for these same lands, rendering them ineligible for leasing.

We are currently working with the Interior Department to design an in-lieu package which will meet all applicable requirements. At this time, it is not certain that those areas under lease application by Justheim Petroleum will be included.

Because the applicants have pursued their leases diligently, only to be frustrated by an in-lieu selection process that has left all parties unsatisfied, I would suggest that you proceed with S.2680 and I lend the state's support to that bill. If we are able to acquire these lands we would expect to assume the leases and the existing lease terms.

If I can provide any additional information, please call my office.

Sincerely,

Cox

Governor

SMM:jb

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Senator WARNER. Fine. I thank the Senator. We will complete this, and we appreciate your indulgence, if you could put that part of it together with the original consideration of S. 2680.

Senator Moss. I appreciate your consideration.

Senator WARNER. Senator, we welcome you at any time.

Senator Moss. Thank you.

Senator WARNER. Thank you so much. Now, Mr. Lawton, we are continuing with S. 2503 and S. 2824.

Your statements are in on both. Do we need anything further for the record, counsel?

[A discussion was held off the record.]

Senator WARNER. I ask the same question with respect to both leases, namely, do you have any reason to believe that there would be any harm to the U.S. Government if this lease was reinstated and validated?

Mr. LAWTON. We at the Department would have no objection.

Senator WARNER. That is both to S. 2503 and S. 2824?

Mr. Lawton. Yes, sir.

Senator WARNER. Do you have any amendments?

Mr. LAWTON. I have one question I would like to raise on S. 2305, this being a reinstatement of an expired lease. The question is what is really reinstated here? Now this was declared a known geologic structure, and it is a large known geologic structure that has wells to the north of it, and this is why 80 acres of this lease would be included in that known geologic structure under the reinstatement. It would be extended for 2 years, and this would be from March 1, 1978, which would extend to March 1, 1980. That would be the 2-year extension under the conditions by which this lease would be reinstated.

That 2 years have expired, and the question I would have is what is being extended if this bill is passed? In other words, the 2-year period has already expired. Is it going to be another 2-year period, a full 2-year period, or what term? That would be the question.

Senator WARNER. Do you have a suggestion?

Mr. LAWTON. Probably the appropriate thing to do would be to grant a 2-year extension which is usually the case when you have a lease with a well being drilled over the primary term expiration date. We would be glad to work with you on this. I don't know if there can be any technicalities here, but the Department staff will be glad to work with you on this.

Senator WARNER. Would the S. 2305 reinstatement procedures cover this bill?

Mr. LAWTON. I am not clear on your statement.

Senator WARNER. Let me repeat it. Would S. 2305 reinstatement procedures cover S. 2503, the mineral management? I am going to let counsel elaborate on that.

Mr. LAWTON. OK. I think I have a problem here on the 2-year period but it can likely be resolved at the staff level.

Mr. SINDELAR. Yes, the 2-year period; the question that has been raised is whether or not the procedure outlined under the Minerals Management Royal Act which allows for automatic reinstatement and sets forth the procedures, the bill currently before Congress now, would take care of this measure without having to act upon this issue bill separately. Or is there a need for a separate piece of

legislation like S. 2503 even though the Minerals Management Royalty Act, was passed?

Mr. LAWTON. I haven't thoroughly studied that minerals management bill, but I think that would probably cover this. That is another thing I think I would like to suggest here on all the reinstatement bills being discussed today that with the Minerals Management Royalty Act passed by the Senate Monday, the committee should consider applying the extension provisions to all these reinstatement leases.

Senator WARNER. Does that cover the tar sands bill?

Mr. LAWTON. That would not be a reinstatement, no, sir.

Senator WARNER. All right. Thank you. All right. I think that completes the subcommittee's consideration of S. 2503, 2824. We will now return to S. 2681 and here from Mr. Frank Weinstock and Mr. Craig Carpenter.

Gentlemen, have you both had adequate time to examine the statement by the governor presented by Mr. Robert Weidner?

Mr. WEINSTOCK. Yes, sir, I think we have.

Mr. CARPENTER. Yes, sir.

Senator WARNER. Now do you have anything further to add?

Mr. WEINSTOCK. No, sir. I believe the facts are well stated as represented.

Senator WARNER. Do you have any statement to submit?

Mr. WEINSTOCK. I would like to touch upon some of the highlights which Western Gold'n Gas feels are important in looking for judicial relief.

STATEMENT OF FRANK WEINSTOCK, WESTERN GOLD'N GAS CO., SALT LAKE CITY, UTAH

Mr. WEINSTOCK. Western was the recipient of a 10-year lease, a BLM lease, and at all times in a timely manner made rental payments over the term of that lease. Time being precious, having made a corporate determination to develop that propery, in mid-April Western Gold'n Gas contracted with my colleague, Craig Carpenter, in Exit, Inc, on a farmout basis, to drill out a well. Recognizing that we were under the gun, I personally called BLM to find out what would be required in order to go ahead and drill that acreage and save our lease beyond the expiration date of April 31, 1981.

It was determined that we would have to drill 51 feet to the casing point, have a Government inspector on site, which I made certain was done through Gordon Engineering, our independent contractor we had hired for the drilling of this well.

We then proceeded to have my office make a determination with BLM if there would be money required, recognizing delay rental payment probably would be necessary. The BLM office was contacted, and it was found thereafter by statement of the Director that the Government was not equipped and didn't have the mechanism necessary to receive payments of tender by virtue of the fact that we were successful in our drilling program. There would be a pro rate payment from the date of expiration to the time it was held by production, so they indicated we should hold it in abeyance and not do anything further. They would advise us at a later date of any

rental payment due, and if we were commercially successful in building this, well, we would be under the responsibility and jurisdiction of USGS by virtue of paying our royalty payment.

We then proceeded to follow that outline, have done everything in a very germane business-like manner that we felt that was necessary in order to do as we had been instructed. The well was drilled and it was considered held by production June 26, 1982. Royalty payments were tendered thereafter and paid to USGS in Casper, Wyo. We had a written check, as a matter of fact, which we have as an exhibit here. It was dated April 29 to the BLM. It was not accepted, and another one at a later date that we mailed and which was returned and rejected.

However, we did make valid attempt and effort to do that. On the date of January 1982, we received a letter from USGS indicating that the lease was held by production so we felt we had a very strong lease. We had a permit late in 1981 to drill on the site, 15-5. In February, we received our permits from the Governor's office. We began drilling in March. We received a letter from the Government that under the 11-year delay program, we had not tendered money and by administrative law we were in violation, were trespassing on Government property, and we were told to cease and desist operations, at which point in time we then discontinued operations, but I would like to turn the balance of my time over Mr. Carpenter as to the situation that developed from that point forward with BLM and escrow funds and continuing deliberability from those wells.

[The prepared statement of Mr. Weinstock follows:]

STATEMENT

of

WESTERN GOLD'N GAS COMPANY

and

EXIT, INC.

in Support of Senate Bill 2681

(December 10, 1982)

The following statement is a written summary of the joint testimony by officers of Western Gold'n Gas Company and Exit, Inc., both Utah corporations located in Salt Lake City, Utah, given before the Senate Committee at Washington, D.C., on December 10, 1982, in support of S. 2681.

Background Information

Federal Oil and Gas Lease U-14654 was issued effective May 1, 1971, for a primary term of 10 years "and so long thereafter as oil or gas is produced in paying quantities", pursuant to the Mineral Leasing Act of February 25, 1920 (30 U.S.C. §181-263), covering 648.18 acres of federal public domain in Grand County, Utah.

By a series of BLM approved transfers the lease ultimately became owned by Western Gold'n Gas Company (50%), J. Bud Vukasovich (25%) and Anthony G. Hatsis (25%) and was reduced in size to 489.26 acres. From 1971 through 1980 the lease was properly maintained by the payment of annual rentals each year.

Since the lease would expire at midnight on April 30, 1981, unless the owners were drilling or producing oil and/or gas from the lease, the owners entered into a contract with Exit, Inc., to make a final attempt to obtain production from the lease. Exit, Inc. obtained the necessary drilling permits and commenced active drilling operations shortly prior to

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April 30, 1981, and was successful in completing the well as a commercial oil well on June 26, 1981.

The U.S. Geological Survey declared in a memorandum to the Bureau of Land Management that the lease was "held by production" as a result of drilling operations over the expiration date and the subsequent successful completion of Federal Well No. 14-5 as a result of those drilling activities.

Circumstances of Termination

The amount of rental due the United States on a federal oil and gas lease is dependent upon whether or not the lands are within a "Known Geologic Structure" (KGS), in which event the rental escalates from .50 per acre annually to $2.00 per acre annually. For the first 10 years of lease U-14654 the annual rental was based on non-KGS status. However, in the ninth year a letter dated May 30, 1980, was received from the BLM advising of a rental rate increase because the subject lands had been included in the "Greater Cisco Area Known Geologic Structure" effective May 4, 1980. The secretary-treasurer of Western Gold'n Gas Company, Ms. Enid Bourgeois was concerned about the exact amount of the rental check which should be paid for the eleventh year rental. According to her affidavit, she prepared a Western Gold'n Gas Company check, No. 864, in the amount of $979.00, dated April 29, 1981, payable to the Bureau of Land Management, to cover the eleventh year annual rental which was due on May 1, 1981. Prior to transmitting the check to the BLM, she telephoned the Utah State Office of BLM to confirm the exact amount for which the check was to be drawn, and was informed that since the lease could be extended only by drilling operations, and then extended further only if the well were producing, the lease would be "held by production" and the account would be handled

exclusively by the U.S. Geological Survey, not the BLM. She concluded from that conversation that BLM would no longer have jurisdiction over an oil and gas lease extended by drilling and production, and that she should look to the U.S. Geological Survey Regional Accounting Office in Casper, Wyoming, for notices on future payments due. Depending upon the outcome of the drilling and producing operations, which would extend the lease, she expected to be notified regarding further rental or minimum royalty due as instructed by that agency. Accordingly, she did not mail the eleventh year rental check as originally intended.

Subsequently, Western Gold'n Gas Company was contacted by the Regional Accounting Office of the U.S. Geological Survey in Casper, Wyoming, and advised to make various royalty payments based upon production from the Federal Well No. 14-5 which, by that time, had been completed as a commercial producing oil well. For a period of over 10 months, from May 1, 1981, until March 11, 1982, the lease owners made all requested royalty payments to the U.S. Geological Survey and, so far as anyone knew, federal lease U-14654 was in "good standing". In fact, two additional wells were drilled on the lease during this 10 month period. Federal Well No. 15-1 was commenced on February 13, 1982, and drilled to a depth of 744 feet, at which point drilling difficulties were encountered and the well had to be abandoned and plugged. A third well, Federal No. 15-5A, was commenced on February 18, 1982, and drilled to a total depth of 3,506 feet and was in the process of being completed as a producing oil well when notice was received that the lease had been terminated ten months earlier.

On May 11, 1982, ten months after federal lease U-14654 had been thought to be extended by drilling and commercial

production, the lease owners received a Decision Letter from the Utah State Office of the BLM stating that lease U-14654 had terminated as of May 1, 1981, due to failure to pay the eleventh year rental as required by 30 U.S.C §188(b), and further that no Petition for Reinstatement had been filed within the mandatory six (6) week period following May 1, 1981, as permitted by federal regulations. Shortly thereafter, on March 29, 1982, the lease owners received a "Notice of Trespass" from the Moab District Office of the Bureau of Land Management, demanding that Exit, Inc., and the lease owners cease all operations on the terminated oil and gas lease.

Immediately the lease owners and Exit, Inc., consulted local legal counsel, since these notices were the first indication that federal lease U-14654 was in jeopardy.

On-going Activities

The problem of "automatic termination" of federal oil and gas leases for non-payment of rental, especially in the case of leases which are extended beyond their primary term by drilling and production activities, is a reoccurring problem with which the local legal counsel were familiar. Western Gold'n Gas Company and Exit, Inc., were advised that the action taken by the BLM was "automatic" under provisions of Public Law 555 (Act of June 29, 1954, 68 Stat 585, 30 U.S.C. §188), and that the only effective recourse would be a passage of remedial legislation by Congress reinstating the terminated lease. Legal counsel felt that the compelling circumstances and confusion which led to non-payment of the rental, and particularly the on-going drilling and producing operations on the lease for the ten months since its "termination", made the lease an excellent candidate for reinstatement by remedial legislation. Nevertheless, counsel filed an appeal with the

Interior Board of Land Appeals in order to keep the lease termination from becoming final and effective, and to forestall the BLM from offering the subject lands for lease to another party, until such time as all avenues for reinstating the terminated lease could be exhausted.

Immediately Western Gold'n Gas Company and Exit, Inc., appealed to Senator Jake Garn (R.-Utah), who shortly thereafter introduced Senate Bill 2681 on June 29, 1982. Unfortunately an earlier bill to reinstate several similar terminated federal oil and gas leases had already progressed through hearings, so that U-14654 could not be added to that legislation already in progress.

On July 7, 1982, the lease owners and Exit, Inc., entered into a "Stipulation and Escrow Agreement" with the United States of America under which the producing well on the terminated lease would be allowed to continue production and the other recently drilled well, capable of production, could be put in production pending the outcome of remedial legislation. All funds are escrowed for the United States of America, with only production royalties to the United States and actual operating costs of a contractor, being paid out of the escrowed account until the lease is reinstated. This was deemed necessary by all parties in order to prevent the producing wells from being damaged by non-production and the possible loss of the reservoir through inactivity for a period which might continue for as long as a year or more. This agreement was reached because of a high degree of confidence by all parties that remedial legislation would ultimately result in reinstatement of the terminated lease.

Reasons for Reinstatement

It is unfortunate that lease U-14654 cannot be reinstated merely by administrative action of the U.S. Department of the

Interior, particularly in view of the delays and confusion eminating from the BLM and the U.S. Geological Survey. However, Public Law 555 (30 U.S.C. §188(b)) is a legislative enactment which cannot be waived by agency officials, however compelling the circumstances.

Public Law 555 was enacted in 1954 to remedy a frequent problem whereby owners of federal oil and gas leases were held liable for long overdue annual rentals when it had been their announced intention to allow the lease to expire by non-payment of the annual rental. P.L. 555 states that non-payment of the annual rental will "automatically terminate" such a lease. There is no safeguard against innocent failure to pay an annual rental, even for the most compelling circumstances. The only present remedy is legislation to reinstate those few terminated leases where the lease owners clearly intended to hold their leases.

The reasons for reinstating federal oil and gas lease U-14654 by remedial legislation can be summarized as follows:

1. The lease owners prepared a rental check and were dissuaded from delivering it to the BLM only because of the confused question of agency jurisdiction of the lease and whether a rental was due instead of royalty. The lease was being drilled and ultimately was classified as a producing oil lease.

2. The lease owner continued to rely, over a period of ten months, upon agency actions and advices, including the good faith payment of production royalties and other payments as requested by the apparently authorized agency, clearly demonstrating an intent to maintain the lease.

3. The expenditure by the lease owners and Exit, Inc., of approximately $500,000.00 for the drilling of three wells and the installation of producing facilities for one of those

wells during the ten month period after the lease was deemed to have been terminated, but before notice was received from any federal agency.

4. The inadequacy of the lease document itself, which contains no express provisions for the payment of any "eleventh year" rental, compounded by the fact that the rental rate was adjusted as a result of a KGS classification in the last year of the primary term.

5. The absence of any other available remedy for reinstating the terminated lease, except by remedial legislation.

In conclusion, the owners of federal lease U-14654, and Exit, Inc., the lease operator, urge this Committee to recommend passage of S-2681 by the Senate immediately, so tnat the bill can be considered by the U.S. House of Representatives in the short time remaining for action in this Congressional Session.

WESTERN GOLD'N GAS COMPANY

By _____

EXIT, INC.

By _____

Senator WARNER. Mr. Carpenter?

STATEMENT OF CRAIG CARPENTER, EXIT, INC., SALT LAKE CITY, UTAH

Mr. CARPENTER. Craig Carpenter, Mr. Chairman; this procedure is new to me, so if I make some mistakes or errors, please correct me.

When the well 14-5 was put on production in June, we continued to produce that well and paid royalties to the Government, and then we subsequently drilled another well, 15-5, to about 700 feet and then that was drilled out a certain number of degrees and a new permit again was filed to drill 15-5A and to move over, which was granted, and that 15-5A was drilled, and it had just been, we were in the completion stages. Pipe had been cemented in, and approximately at that time we got the cease and desist notice from the Bureau of Land Management to remove everything from the premises, and prior to that time all the royalty payments, windfall taxes on 14-5 had been paid.

In July 1982 a stipulation agreement was signed by Minerals Management and the BLM to put 14-5 back on production which was done on July 17. There was escrow provisions that Exit, Inc., along with Mr. Edwin of Minerals Management in Salt Lake City, are overseeing the escrow procedures, the money is being accounted for by the Government, the windfall profits royalty taxes are being paid, and since July 1982 we have been back on production on 14-5 and we are presently trying to secure the necessary bids, AFE's, to move on the lease site and complete 15-5A.

Today Exit, Inc. is a publicly held corporation with Utah's residence, and an intra-state offering was done 2½ years ago. We have approximately 2,000 stockholders. Sixty-five, 70 percent of Exit, Inc.'s moneys have been spent on this lease, and without getting it back on production we and the board of directors of Exit, Inc. feel that there is a very strong possibility that Exit, Inc. cannot survive, that the assets have been expended on this lease, and that reinstatement since we were not a part of the lease payments with the BLM or have known anything about the delinquency of the 11-year rental extension payment, and when the BLM and their offices continued to give us drilling permits as much as 8 months after the lease had expired, we certainly consider ourselves innocent parties as to that there was any neglect or problems with the lease, and basically I think that sums up Exit's position.

Thank you, Mr. Chairman.

Senator WARNER. Mr. Lawton, do you have anything further to add?

Mr. LAWTON. I have nothing further specifically. The stipulation and escrow agreement that was entered into in July 1982 does provide for a direct payment of royalties to the Government and operating funds to the company. The remainder is in escrow.

We have no objection to the passage of this bill, and it probably is in the national interest to reinstate it.

Senator WARNER. What about your opinion as to whether or not there is any harm to the Government and the public should this lease be reinstated and revalidated?

Mr. LAWTON. As I say, I think it is probably in the national interest if this is reinstated. It is in production, and the stipulation and escrow agreement has allowed production to continue because if it is terminated, it probably could not get back on line.

Senator WARNER. I think that completes the testimony that we received on the subcommittee this morning. We thank all witnesses for appearing, staff for getting up so early, and Madam Reporter for your going through a rather unusual procedure.

Thank you.

[Whereupon, at 9:35 a.m., the hearing was adjourned.]

[Subsequent to the hearing, Mr. Lawton supplied the following:]

JAMES A. McCLURE, IDAHO, CHAIRMAN
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United States Senate
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, D.C. 20510

December 13, 1982

Mr. Robert Lawton
Assistant Director, Energy Resources
Bureau of Land Management
Department of the Interior
Washington, D.C. 20240

Dear Mr. Lawton:

On December 10, 1982, you testified before the Subcommittee on Energy and Mineral Resources on several oil and gas lease applications of which S. 2680 was included.

As we discussed at the hearing, enclosed are questions that Senator Jackson posed relating to S. 2680.

Consideration of the bill by the Committee depends upon your prompt response.

Thank you for your cooperation.

Sincerely,

John W. Warner

John W. Warner
Chairman
Subcommittee on Energy and
Mineral Resources

JWW:RS/tt

December 13, 1982

Senator Jackson

Questions for Mr. Lawton regarding S. 2680

1(a). What percentage of the total known tar sand resource is covered by the three oil and gas lease applications addressed in S. 2680?

(b). Besides the three oil and gas lease applications addressed in S. 2680, how many other oil and gas lease applications or tar sand lease applications were outstanding on the date of enactment of the Combined Hydrocarbon Leasing Act of 1981 (November 16, 1981)?

(c). What percentage of the total known tar sand resource is covered by the other oil and gas lease applications and tar sand lease applications that were outstanding on the date of enactment of the Combined Hydrocarbon Leasing Act of 1981?

(d). Would the Department support legislation authorizing the Secretary to process the other oil and gas lease applications and tar sand lease applications outstanding on the date of enactment of the Combined Hydrocarbon Leasing Act of 1981, in accordance with the laws in effect immediately prior to the date of enactment?

2. In your written testimony regarding S. 2680, you noted that the lands involved in the three oil and gas lease applications have been designated as a special tar sand area, and that the Combined Hydrocarbon Leasing Act of 1981 requires that lands within such areas may only be leased by competitive bidding.

(a). What would be the approximate amount of revenues to the United States if the lands covered by the three lease applications were leased by competitive bidding?

(b). What would be the approximate amount of revenues to the United States if the three lease applications were processed in the manner prescribed in S. 2680?

IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

Honorable John W. Warner
Chairman, Subcommittee on
Energy and Mineral Resources
Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510

DEC 22 1982

Dear Mr. Chairman:

This is in response to your letter transmitting questions Senator Jackson posed relating to S. 2680. Senator Jackson's questions and our responses are enclosed.

Although S. 2680 concerns certain lands selected by the State of Utah, it is important to note that the State's indemnity selection rights for the involved lands would not be affected by the bill. If the bill is enacted and the leases issued, the land could be conveyed to the State, subject to the leases as a result of the bill.

We appreciate the opportunity to assist in your review of S. 2680. Please do not hesitate to contact us if there are any additional questions.

Sincerely,

(Sgd) Robert H. Lawton

Director
Assistant

Enclosures

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1(a). What percentage of the total known tar sand resource is covered by the three oil and gas lease applications addressed in S. 2680?

We estimate that applications cover approximately four percent of the total recoverable tar sand resource.

1(b). Besides the three oil and gas lease applications addressed in S. 2680, how many other oil and gas lease applications or tar sand lease applications were outstanding on the date of enactment of the Combined Hydrocarbon Leasing Act of 1981 (November 16, 1981)?

Besides the three oil and gas lease applications addressed in S. 2680, there were between 25 and 30 oil and gas lease applications outstanding in the 11 tar sand areas on the date of enactment of the Combined Hydrocarbon Leasing Act of 1981. There were no tar sand lease applications outstanding.

1(c). What percentage of the total known tar sand resource is covered by the other oil and gas lease applications and tar sand lease applications that were outstanding on the date of enactment of the Combined Hydrocarbon Leasing Act of 1981?

We estimate that the percentage of the total tar sand resource covered by the other oil and gas lease applications is between four and five percent. This estimate is based on an average of 1,300 acres per application and a uniform distribution of the resource.

1(d). Would the Department support legislation authorizing the Secretary to process the other oil and gas lease applications and tar sand lease applications outstanding on the date of enactment of the Combined Hydrocarbon Leasing Act of 1981, in accordance with the laws in effect immediately prior to the date of enactment?

The Department of the Interior can not establish a position on legislation which it has not had the opportunity to review. The Department's position on any bill is necessarily dependent on various factors, including but not limited to the facts involved, the relief sought, the effect of the bill on parties other than its direct beneficiaries, potential precedents and the wording of the bill itself. Thus, we are not able to state whether or not we would support legislation that would provide relief to other holders of oil and gas lease applications for lands in designated tar sands areas.

2. In your written testimony regarding S. 2680, you noted that the lands involved in the three oil and gas lease applications have been designated as a special tar sand area, and that the Combined Hydrocarbon Leasing Act of 1981 requires that lands within such areas may only be leased by competitive bidding.

2(a). What would be the approximate amount of revenues to the United States if the lands covered by the three lease applications were leased by competitive bidding?

The figures used for the estimates for questions 2(a) and 2(b) are based on current price levels and do not consider future economic conditions and changes in the price of oil. If the lands covered by the three lease applications were leased by competitive bidding we estimate the approximate revenues to the United States would be as follows:

$ 316,000	Bonus
$ 57,520	Rental
$385,000,000	Royalty
$385,373,520	Total

2(b). What would be the approximate amount of revenues to the United States if the three lease applications were processed in the manner prescribed in S. 2680?

If the lands covered by the three lease applications were processed in the manner prescribed in S. 2680, we estimate the approximate revenues to the United States would be as follows:

$ 57,520	Rental
$385,057,000	Royalty
$385,057,520	Total

If the lease applications are processed according to S. 2680, i.e., if the oil and gas leases are converted to combined hydrocarbon leases under section 2 of the bill, the $316,000 bonus bid for competitive leases would be eliminated. The per acre rental would drop to $1.00 per acre, but the lease term would be extended by 5 years. The total rental received under a combined hydrocarbon lease for 10 years would be $57,520.

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